

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-35 Legistar #: 20140856

Board of Zoning Appeals Hearing: Monday, August 25, 2014 – 6:00 p.m.

Property Owner: James R. Bagwell
1641 Canton Road
Marietta, GA 30066

Applicant: Ebenezer Olotu
2060 Kinridge Place Court
Marietta, GA 30062

Address:

Land Lot: 08540 District: 16 Parcel: 0470

Council Ward: 6B Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the required minimum lot size of 1.46 acres to 0.841 acres to operate automobile sales and other businesses. [§708.16 (B.6)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



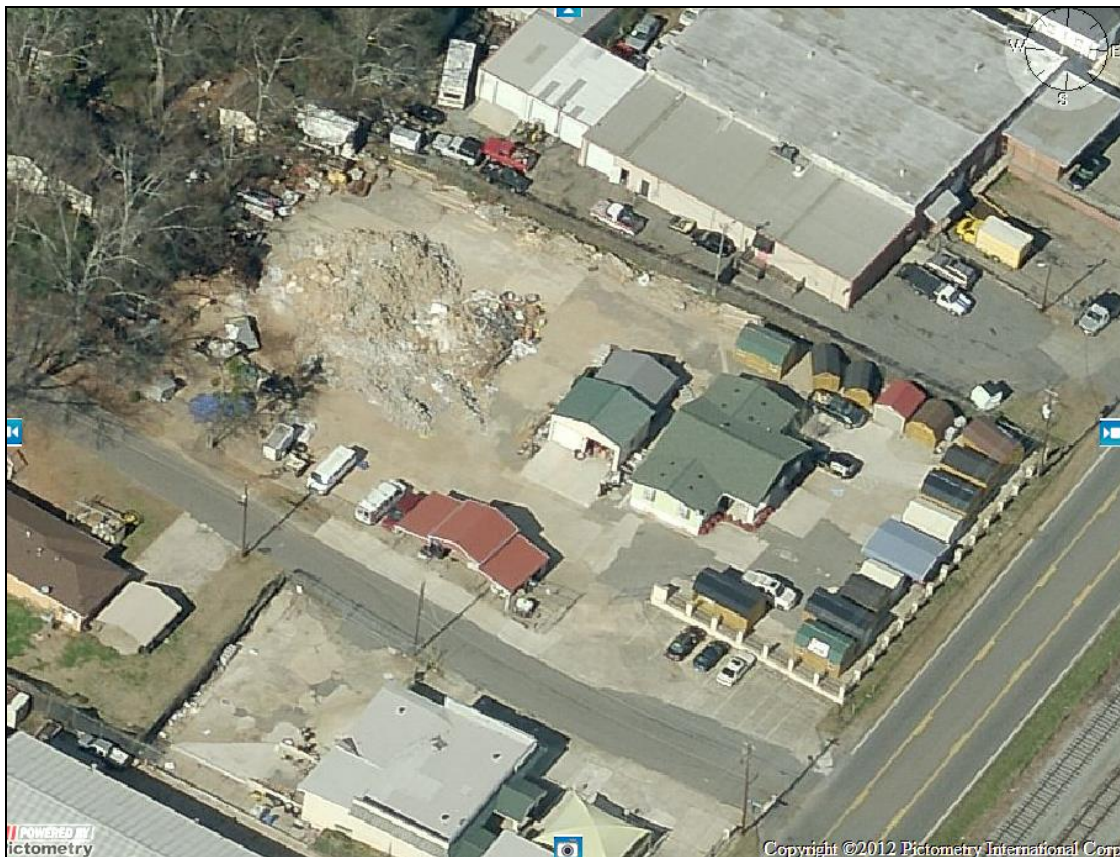
Southwest side of 1641 Canton Road



View of 1641 Canton Road from Mitchell Drive



Northwest side of 1641 Canton Road



Aerial image of subject property

Recommended Action:

Denial. The applicant, Ebenezer Olotu of Ride Rite Automobiles LLC, is requesting a variance for the property located at 1641 Canton Road that would allow automobile sales on a parcel that is only 0.841 acres. The property is zoned CRC (Community Retail Commercial) along with both adjacent properties that are within Marietta's city limits. The rear property is a residential neighborhood that is a part of Cobb County. The property is located in the northern portion of the city in a predominately industrial area. The applicant is requesting the variance to be able to operate a used car lot and other automobile related uses such as a car wash and inventory storage all on the same property with only 0.841 acres.

Section 708.16(B.6) lists automobile sales as permitted use in the CRC zoning district with a minimum one acre lot size. Staff has a formal policy (see attached memo dated November 1, 2011) of interpreting this provision to require one acre for each auto dealer operating on the property. If there are other businesses operating on the site, then an additional 20,000 square feet would be required. Since more than one use will occur on this property, 1.46 acres is the required acreage for the proposed operations.

The property currently has active business licenses for auto brokerages (no inventory). In the past, the property has been used for various supply industrials, trailer lots and an auto business.

Staff noted during a site visit that the property already had vehicles being stored on the property. In addition, the site has multiple unpermitted awnings with one in the front which is against zoning regulations. The applicant stated he will remove the front awning and work to get permits for the others.

The following is a table that shows similar variances that have been brought before the Board of Zoning Appeals and the rulings.

Case #	Address	Acreage	Zoning	Ruling	Stipulations
V2000-07	1960 Airport Ind Park Dr	0.46	LI	Approved	None
V2000-12	1326 Cobb Pkwy N	0.64	CRC	Approved	No more than 6 cars for sale at a time
V2000-16	2072 Airport Ind Pk Dr	0.65	LI	Approved	None
V2001-02	484 Cobb Pkwy N	0.611	CRC	Denied	
V2001-07	1195 Cobb Pkwy S	0.426	CRC	Approved	None
V2004-21	44 N Fairground St	0.3	CRC	Approved	Sale of motorcycles only; vehicles to be stored inside at the end of business day
V2006-06	1791 Roswell Rd	0.7	CRC	Denied	
V2007-05	1955 Airport Ind Park Drive	0.348	LI	Approved	None
V2013-03	927 & 929 S Marietta Pkwy	0.76	CRC	Denied	
V2013-46	927 & 929 S Marietta Pkwy	0.76	CRC	Denied	
V2014-28	1245 Bellemeade Ave	0.557	CRC	Approved	None



According to City Business License records, this property has never been used as a car sales lot, and has consistently been occupied by a variety of other uses. Further, the CRC zoning category provides numerous options in regards to the types of businesses that may occupy the property. Since no specific hardships have been identified in regards to this request, **staff recommends denial of this variance request.**